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FILED

APR 07 2000

DEPARTMENT OF REAL ESTATE

By Jean Bernick

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

| | |
|--------------------------------------|-------------------|
| In the Matter of the Accusation of) | |
| FOOTHILL LAND CO.,) | No. H-1301 FRESNO |
| KEVIN EARL CHRISTIANSEN) | |
| Respondents.) | |

ORDER GRANTING REINSTATEMENT OF LICENSE

On January 30, 1997, an Order was rendered herein revoking the real estate broker licenses of Respondents but granting Respondents the right to apply for restricted real estate broker licenses upon terms and conditions. Restricted real estate broker licenses were issued to Respondents on March 3, 1997 and Respondents have operated as restricted licensees without cause for disciplinary action against Respondents since that time.

On February 18, 1999, Respondent Christiansen petitioned for reinstatement of his broker license and on April 7, 1999, Respondent Foothill Land Co. petitioned for

1 reinstatement of its broker license. The Attorney General of the
2 State of California has been given notice of the filing of said
3 petitions.

4 I have considered the petitions of Respondents and the
5 evidence and arguments in support thereof including Respondents'
6 records as restricted licensees. Respondents have demonstrated
7 to my satisfaction that Respondents meet the requirements of law
8 for the issuance to Respondents of unrestricted real estate
9 broker licenses and that it would not be against the public
10 interest to issue said licenses to Respondents.

11 NOW, THEREFORE, IT IS ORDERED that Respondents'
12 petition for reinstatement is granted and that real estate broker
13 licenses be issued to Respondents if Respondents satisfy the
14 following condition within nine months from the date of this
15 Order:

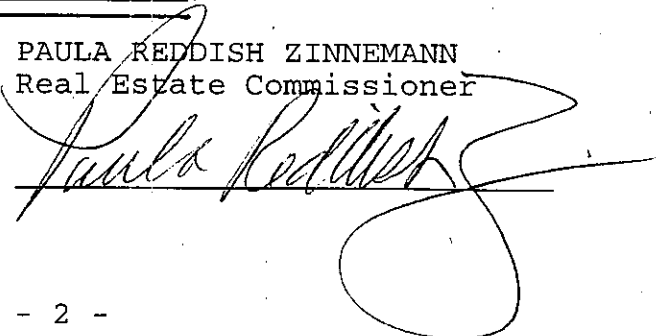
16 1. Submittal of a completed applications and payment
17 of the fees for real estate broker licenses.

18 2. Submittal of evidence of Respondent Christiansen
19 having, since the most recent issuance of an original or renewal
20 real estate license, taken and successfully completed the
21 continuing education requirements of Article 2.5 of Chapter 3 of
22 the Real Estate Law for renewal of a real estate license.

23 This Order shall be effective immediately.

24 DATED: March 28, 2000

25 PAULA REDDISH ZINNEMANN
26 Real Estate Commissioner

27 

1 Department of Real Estate
2 P. O. Box 187000
3 Sacramento, CA 95818-7000
4
5 Telephone: (916) 227-0789
6
7

FILED
FEB 11 1997
DEPARTMENT OF REAL ESTATE

BY *Laurie A. Zain*

8 BEFORE THE DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of) NO. H-1301 FRESNO
12)) OAH NO. N-9608167
13 Foothill Land Co., and))
14 KEVIN EARL CHRISTIANSEN,))
15 Respondents.))
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16 It is hereby stipulated by and between Respondent KEVIN
17 EARL CHRISTIANSEN and Respondent FOOTHILL LAND CO., acting by and
18 through Kevin Earl Christiansen, designated officer and president
19 of Respondent FOOTHILL LAND CO., both represented in these
20 proceedings by A. Emory Wishon III, Esq., and the Complainant,
21 acting by and through James L. Beaver, Counsel for the Department
22 of Real Estate, as follows for the purpose of settling and
23 disposing of the Accusation filed on August 2, 1996 in this matter
24 (hereinafter "the Accusation"):

25 1. All issues which were to be contested and all
26 evidence which was to be presented by Complainant and Respondents
27 at a formal hearing on the Accusation, which hearing was to be

1 held in accordance with the provisions of the Administrative
2 Procedure Act (APA), shall instead and in place thereof be
3 submitted solely on the basis of the provisions of this
4 Stipulation and Agreement in Settlement.

5 2. Respondents have received, read and understand the
6 Statement to Respondents, the Discovery Provisions of the APA and
7 the Accusation filed by the Department of Real Estate in this
8 proceeding.

9 3. On August 14, 1996, Respondents filed a Notice of
10 Defense pursuant to Section 11505 of the Government Code for the
11 purpose of requesting a hearing on the allegations in the
12 Accusation. Respondents hereby freely and voluntarily withdraw
13 said Notice of Defense. Respondents acknowledge that Respondents
14 understand that by withdrawing said Notice of Defense, Respondents
15 will thereby waive Respondents' right to require the Commissioner
16 to prove the allegations in the Accusation at a contested hearing
17 held in accordance with the provisions of the APA and that
18 Respondents will waive other rights afforded to Respondents in
19 connection with the hearing such as the right to present evidence
20 in defense of the allegations in the Accusation and the right to
21 cross-examine witnesses.

22 4. Respondents, pursuant to the limitations set forth
23 below, hereby admit that the factual allegations in Paragraphs I
24 through VIII, Paragraph IX(b), Paragraph X, Paragraph XI(b), and
25 XII of the Accusation are true and correct and the Real Estate
26 Commissioner shall not be required to provide further evidence to
27 prove such allegations.



1 5. It is understood by the parties that the Real
2 Estate Commissioner may adopt the Stipulation and Agreement as his
3 decision in this matter, thereby imposing the penalty and
4 sanctions on Respondents' real estate licenses and license rights
5 as set forth in the "Order" set forth below. In the event that
6 the Commissioner in his discretion does not adopt the Stipulation
7 and Agreement in Settlement, it shall be void and of no effect,
8 and Respondents shall retain the right to a hearing and proceeding
9 on the Accusation under all the provisions of the APA and shall
10 not be bound by any admission or waiver made herein.

11 6. The Order or any subsequent Order of the Real
12 Estate Commissioner made pursuant to this Stipulation and
13 Agreement in Settlement shall not constitute an estoppel, merger
14 or bar to any further administrative or civil proceedings by the
15 Department of Real Estate with respect to any matters which were
16 not specifically alleged to be causes for accusation in this
17 proceeding.

18 7. Respondent FOOTHILL LAND CO. has received, read and
19 understands the "Notice Concerning Costs of Subsequent Audits".
20 Respondent understands that by agreeing to this Stipulation and
21 Agreement in Settlement, the findings set forth below in the
22 Determination Of Issues become final, and that the Commissioner
23 may charge said Respondent for the costs of any audit conducted
24 pursuant to Section 10148 of the Business and Professions Code to
25 determine if the violations have been corrected. The maximum
26 costs of said audit will not exceed \$9,781.20.

27 ///

1 DETERMINATION OF ISSUES

2 By reason of the foregoing stipulations, admissions and
3 waivers and solely for the purpose of settlement of the pending
4 Accusation without hearing, it is stipulated and agreed that the
5 following Determination of Issues shall be made:

6 I

7 The acts and/or omissions of Respondent FOOTHILL LAND
8 CO. as described in Paragraphs I through VIII, and IX(b) of the
9 Accusation violated Section 2831.1 of Chapter 6, Title 10,
10 California Code of Regulations (hereinafter "the Regulations").
11 Said violation constitutes cause pursuant to the provisions of
12 Section 10177(d) of the California Business and Professions Code
13 (hereinafter "the Code") for the suspension or revocation of all
14 licenses and/or license rights of Respondent FOOTHILL LAND CO.
15 under the Real Estate Law.

16 II

17 The conduct of Respondent KEVIN EARL CHRISTIANSEN, as
18 described in Paragraphs I through VIII and X of the Accusation, in
19 allowing Respondent FOOTHILL LAND CO. to violate the provision of
20 the Regulations described in Paragraph I, above, while acting as
21 the designated officer of Respondent FOOTHILL LAND CO.,
22 constitutes a failure to exercise reasonable supervision and
23 control of the activities of Respondent FOOTHILL LAND CO. for
24 which a real estate license is required, and is cause pursuant to
25 the provisions of Section 10177(h) of the Code for the suspension
26 or revocation of the licenses and/or licensing rights of
27 Respondent KEVIN EARL CHRISTIANSEN under the Real Estate Law.



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ORDER

I

All licenses and licensing rights of Respondent Foothill Land Co. under the Real Estate Law are revoked; provided, however, a restricted real estate broker license shall be issued to Respondent pursuant to Section 10156.5 of the Business and Professions Code if Respondent makes application therefor and pays to the Department of Real Estate the appropriate fee for the restricted license within ninety (90) days from the effective date of the Decision entered pursuant to this Order (hereinafter "the Decision"). The restricted license issued to Respondent shall be subject to all of the provisions of Section 10156.7 of the Business and Professions Code and to the following limitations, conditions and restrictions imposed under authority of Section 10156.6 of that Code:

1. The restricted license issued to Respondent may be suspended prior to hearing by Order of the Real Estate Commissioner in the event of Respondent's conviction or plea of nolo contendere to a crime which is substantially related to Respondent's fitness or capacity as a real estate licensee.

2. The restricted license issued to Respondent may be suspended prior to hearing by Order of the Real Estate Commissioner on evidence satisfactory to the Commissioner that Respondent has violated provisions of the California Real Estate Law, the Subdivided Lands Law, Regulations of the Real Estate Commissioner or conditions attaching to the restricted license.

///



1 3. Respondent shall not be eligible to apply for the
2 issuance of an unrestricted real estate license nor for the
3 removal of any of the conditions, limitations or restrictions of a
4 restricted license until one (1) year has elapsed from the
5 effective date of this Decision.

6 4. Pursuant to Section 10148 of the Business and
7 Professions Code, Respondent shall pay the Commissioner's
8 reasonable cost for an audit to determine if Respondent has
9 corrected the trust fund violation(s) found in paragraph I of the
10 Determination of Issues. In calculating the amount of the
11 Commissioner's reasonable cost, the Commissioner may use the
12 estimated average hourly salary for all persons performing audits
13 of real estate brokers, and shall include an allocation for travel
14 time to and from the auditor's place of work. Respondent shall
15 pay such cost within forty-five (45) days of receiving an invoice
16 from the Commissioner detailing the activities performed during
17 the audit and the amount of time spent performing those
18 activities. The Commissioner may suspend the restricted license
19 issued to respondent pending a hearing held in accordance with
20 Section 11500, et seq., of the Government Code, if payment is not
21 timely made as provided for herein, or as provided for in a
22 subsequent agreement between the Respondent and the Commissioner.
23 The suspension shall remain in effect until payment is made in
24 full or until Respondent enters into an agreement satisfactory to
25 the Commissioner to provide for payment, or until a decision
26 providing otherwise is adopted following a hearing held pursuant
27 to this condition.

1 5. Any restricted real estate broker license issued to
2 Respondent may be suspended or revoked for a violation by
3 Respondent of any of the conditions attaching to the restricted
4 license.

5 II

6 All licenses and licensing rights of Respondent
7 KEVIN EARL CHRISTIANSEN under the Real Estate Law are revoked;
8 provided, however, a restricted real estate broker license shall
9 be issued to Respondent pursuant to Section 10156.5 of the
10 Business and Professions Code if Respondent makes application
11 therefor and pays to the Department of Real Estate the appropriate
12 fee for the restricted license within ninety (90) days from the
13 effective date of the Decision entered pursuant to this Order
14 (hereinafter "the Decision"). The restricted license issued to
15 Respondent shall be subject to all of the provisions of Section
16 10156.7 of the Business and Professions Code and to the following
17 limitations, conditions and restrictions imposed under authority
18 of Section 10156.6 of that Code:

19 1. The restricted license issued to Respondent may be
20 suspended prior to hearing by Order of the Real Estate
21 Commissioner in the event of Respondent's conviction or plea of
22 nolo contendere to a crime which is substantially related to
23 Respondent's fitness or capacity as a real estate licensee.

24 2. The restricted license issued to Respondent may be
25 suspended prior to hearing by Order of the Real Estate
26 Commissioner on evidence satisfactory to the Commissioner that
27 Respondent has violated provisions of the California Real Estate

1 Law, the Subdivided Lands Law, Regulations of the Real Estate
2 Commissioner or conditions attaching to the restricted license.

3 3. Respondent shall not be eligible to apply for the
4 issuance of an unrestricted real estate license nor for the
5 removal of any of the conditions, limitations or restrictions of a
6 restricted license until one (1) year has elapsed from the
7 effective date of this Decision.

8 4. Respondent shall, within nine (9) months from the
9 effective date of the Decision, present evidence satisfactory to
10 the Real Estate Commissioner that Respondent has, since the most
11 recent issuance of an original or renewal real estate license,
12 taken and successfully completed the continuing education
13 requirements of Article 2.5 of Chapter 3 of the Real Estate Law
14 for renewal of a real estate license. If Respondent fails to
15 satisfy this condition, the Commissioner may order the suspension
16 of the restricted license until the Respondent presents such
17 evidence. The Commissioner shall afford Respondent the
18 opportunity for a hearing pursuant to the Administrative Procedure
19 Act to present such evidence.

20 5. Respondent shall, within six (6) months from the
21 effective date of the restricted license, take and pass the
22 Professional Responsibility Examination administered by the
23 Department including the payment of the appropriate examination
24 fee. If Respondent fails to satisfy this condition, the
25 Commissioner may order the suspension of the restricted license
26 until Respondent passes the examination.

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6. Any restricted real estate broker license issued to
Respondent may be suspended or revoked for a violation by
Respondent of any of the conditions attaching to the restricted
license.

1-3-97
DATED

James L. Beaver
JAMES L. BEAVER, Counsel
DEPARTMENT OF REAL ESTATE

* * *

I have read the Stipulation and Agreement, have
discussed its terms with my attorney, and its terms are understood
by me and are agreeable and acceptable to me. I understand that I
am waiving rights given to me by the California Administrative
Procedure Act (including but not limited to Sections 11506,
11508, 11509, and 11513 of the Government Code), and I willingly,
intelligently, and voluntarily waive those rights, including the
right of requiring the Commissioner to prove the allegations in
the Accusation at a hearing at which I would have the right to
cross-examine witnesses against me and to present evidence in
defense and mitigation of the charges.

1-2-97
DATED

Kevin Earl Christiansen
FOOTHILL LAND CO.
By Kevin Earl Christiansen
President and Designated
Officer
Respondent

1-2-97
DATED

Kevin Earl Christiansen
KEVIN EARL CHRISTIANSEN
Respondent

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* * *

I have reviewed the Stipulation and Agreement as to form and content and have advised my clients accordingly.

January 2, 1997
DATED

A. Emory Wishon III
A. EMORY WISHON III
Attorney for Respondents

* * *

The foregoing Stipulation and Agreement for Settlement
is hereby adopted by the Real Estate Commissioner as his Decision
and Order and shall become effective at 12 o'clock noon on
March 3, 1997.

IT IS SO ORDERED 1/30, 1997.

JIM ANTT, JR.
Real Estate Commissioner

Jr. Antt Jr.

FILED
AUG 30 1996
DEPARTMENT OF REAL ESTATE

**BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA**

Laurie A. Zain
by Laurie A. Zain

In the Matter of the Accusation of

FOOTHILL LAND CO., and
KEVIN EARL CHRISTIANSEN,

}

Case No. H-1301 FRESNO

OAH No. N-9608167

Respondent

NOTICE OF HEARING ON ACCUSATION

To the above named respondent:

You are hereby notified that a hearing will be held before the Department of Real Estate at the
State Building, 2550 Mariposa Mall, Room 1038, Fresno, CA 93721

on January 7th, 1997, at the hour of 9:00 AM,
or as soon thereafter as the matter can be heard, upon the Accusation served upon you.

You may be present at the hearing. You have the right to be represented by an attorney at your own expense. You are not entitled to the appointment of an attorney to represent you at public expense. You are entitled to represent yourself without legal counsel. If you are not present in person nor represented by counsel at the hearing, the Department may take disciplinary action against you based upon any express admission or other evidence including affidavits, without any notice to you.

You may present any relevant evidence and will be given full opportunity to cross-examine all witnesses testifying against you. You are entitled to the issuance of subpoenas to compel the attendance of witnesses and the production of books, documents or other things by applying to the Department of Real Estate.

The hearing shall be conducted in the English language. If you want to offer the testimony of any witness who does not proficiently speak the English language, you must provide your own interpreter. The interpreter must be approved by the Administrative Law Judge conducting the hearing as someone who is proficient in both English and the language in which the witness will testify. You are required to pay the costs of the interpreter unless the Administrative Law Judge directs otherwise.

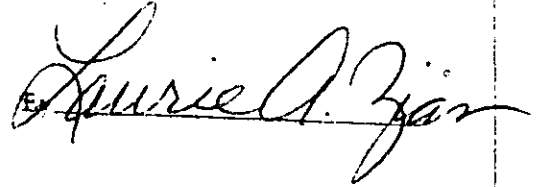
Dated: August 30, 1996

DEPARTMENT OF REAL ESTATE
By Larry Alamao
LARRY A. ALAMAO *Counsel*
for JAMES L. BEAVER, *Counsel*

1 JAMES L. BEAVER, Counsel
2 Department of Real Estate
3 P. O. Box 187000
4 Sacramento, CA 95818-7000

FILED
AUG - 2 1996
DEPARTMENT OF REAL ESTATE

5 Telephone: (916) 227-0789



6
7 BEFORE THE DEPARTMENT OF REAL ESTATE

8 STATE OF CALIFORNIA

9 * * *

10 In the Matter of the Accusation of)
11) No. H-1301 FRESNO
12 Foothill Land Co., and)
13 KEVIN EARL CHRISTIANSEN,) ACCUSATION
14 Respondents.)

15 The Complainant, Dolores Vazquez-Ramos, a Deputy Real
16 Estate Commissioner of the State of California, for cause of
17 Accusation against FOOTHILL LAND CO. (hereinafter "FOOTHILL") and
18 KEVIN EARL CHRISTIANSEN (hereinafter "CHRISTIANSEN"), is informed
19 and alleges as follows:

20 I

21 The Complainant, Dolores Vazquez-Ramos, a Deputy Real
22 Estate Commissioner of the State of California, makes this
23 Accusation in her official capacity.

24 II

25 At all times herein mentioned, Respondents FOOTHILL and
26 CHRISTIANSEN were and now are licensed and/or have license rights
27 under the Real Estate Law (Part 1 of Division 4 of the Business
and Professions Code) (hereinafter "the Code").

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III

At all times herein mentioned, Respondent FOOTHILL was and now is licensed by the Department of Real Estate of the State of California (hereinafter "the Department") as a corporate real estate broker by and through Respondent CHRISTIANSEN as designated officer-broker of Respondent FOOTHILL to qualify said corporation and to act for said corporation as a real estate broker..

IV

At all times herein mentioned, Respondent CHRISTIANSEN was and now is licensed by the Department as a real estate broker, individually and as designated officer-broker of Respondent FOOTHILL. As said designated officer-broker, Respondent CHRISTIANSEN was at all times mentioned herein responsible pursuant to Section 10159.2 of the Code for the supervision of the activities of the officers, agents, real estate licensees and employees of Respondent FOOTHILL for which a license is required.

V

Whenever reference is made in an allegation in this Accusation to an act or omission of Respondent FOOTHILL, such allegation shall be deemed to mean that the officers, directors, employees, agents and real estate licensees employed by or associated with Respondent FOOTHILL committed such act or omission while engaged in the furtherance of the business or operations of Respondent FOOTHILL and while acting within the course and scope of their corporate authority and employment.

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1 VI

2 At all times herein mentioned, Respondents engaged in
3 the business of, acted in the capacity of, advertised, or assumed
4 to act as real estate brokers within the State of California
5 within the meaning of Sections 10131(b) of the Code, including the
6 operation and conduct of a property management business with the
7 public wherein, on behalf of others, for compensation or in
8 expectation of compensation, Respondents leased or rented and
9 offered to lease or rent, and placed for rent, and solicited
10 listings of places for rent, and solicited for prospective tenants
11 of real property or improvements thereon, and collected rents from
12 real property or improvements thereon.

13 VII

14 In so acting as real estate brokers, as described in
15 Paragraph VI above, Respondents accepted or received funds in
16 trust (hereinafter "trust funds") from or on behalf of owners and
17 tenants in connection with the leasing, renting, and collection of
18 rents on real property or improvements thereon, as alleged herein,
19 and thereafter from time to time made disbursements of said funds.

20 VIII

21 The aforesaid trust funds accepted or received by
22 Respondents were deposited or caused to be deposited by
23 Respondents into one or more bank accounts (hereinafter "trust
24 fund accounts") maintained by Respondents for the handling of
25 trust funds, including but not necessarily limited to the
26 "Foothill Land Co. dba K & K Property Management (Permanent Rental
27 Trust Account)", Account No. 002-042851, maintained by Respondents



1 at Clovis Community Bank, Shaver Lake, California (hereinafter
2 "Trust 1").

3 IX

4 Within the three-year period immediately preceding the
5 filing of this Accusation, in connection with the collection and
6 disbursement of said trust funds, Respondent FOOTHILL:

7 (a) Failed to place trust funds entrusted to Respondent
8 FOOTHILL into the hands of a principal on whose behalf the funds
9 were received, into a neutral escrow depository, or into a trust
10 fund account in the name of Respondent FOOTHILL as trustee at a
11 bank or other financial institution, in conformance with the
12 requirements of Section 10145 of the Code and Section 2830 of
13 Chapter 6, Title 10, California Code of Regulations (hereinafter
14 "the Regulations");

15 (b) Failed to maintain a separate record for each
16 beneficiary or transaction, accounting therein for all said trust
17 funds received, deposited into, and disbursed from Trust 1, in the
18 manner required by Regulation 2831.1;

19 (c) Failed to reconcile, at least once a month, the
20 balance of all separate beneficiary or transaction records with
21 the record of all trust funds received into and disbursed from
22 Trust 1;

23 (d) Caused, suffered or permitted the balance of funds
24 in Trust 1 to be reduced to an amount which, as of February 29,
25 1996, was approximately \$22,099.13 less than the aggregate
26 liability of Respondent FOOTHILL to all owners of such funds,
27 without the prior written consent of the owners of such funds; and



1 (e) Failed to conform to the requirements of Regulation
2 2833 with respect to unexplained trust account overages in Trust 1
3 of \$4,795.51 as of January 31, 1994 and \$1,315.83 as of
4 February 28, 1994, by failing to maintain a separate record for
5 such unexplained trust account overages, and by failing to perform
6 a monthly reconciliation of such funds in the manner prescribed by
7 Regulation 2831.2.

8 X

9 Respondent CHRISTIANSEN failed to exercise reasonable
10 supervision over the acts of Respondent FOOTHILL in such a manner
11 as to allow the acts and events described in Paragraph IX to
12 occur.

13 XI

14 The facts alleged above are grounds for the suspension
15 or revocation of the licenses and license rights of Respondent
16 FOOTHILL under the following provisions of the Code and/or the
17 Regulations:

18 (a) As to Paragraph IX(a) under Section 10145 of the
19 Code and Section 2830 of the Regulations in conjunction with
20 Section 10177(d) of the Code;

21 (b) As to Paragraph IX(b) under 2831.1 of the
22 Regulations in conjunction with Section 10177(d) of the Code;

23 (c) As to Paragraph IX(c) under Section 2831.2 of the
24 Regulations in conjunction with Section 10177(d) of the Code;

25 (d) As to Paragraph IX(d) under Section 10145 of the
26 Code and 2832.1 of the Regulations in conjunction with Section
27 10177(d) of the Code; and



1 (e) As to Paragraph IX(e) under Section 2833 of the
2 Regulations in conjunction with Section 10177(d) of the Code.


3 XII

4 The facts alleged in Paragraph X, above, are grounds for
5 the suspension or revocation of the licenses and license rights of
6 Respondent CHRISTIANSEN under Section 10177(g) and/or Section
7 10177(h) of the Code and Section 10159.2 of the Code in
8 conjunction with Section 10177(d) of the Code.

9 PRIOR DISCIPLINE

10 Effective April 20, 1990, in Case No. H-957 FRESNO, the
11 Real Estate Commissioner suspended the real estate broker licenses
12 of Respondents FOOTHILL and CHRISTIANSEN for violation of Section
13 10177(d) of the California Business and Professions Code.

14 WHEREFORE, Complainant prays that a hearing be conducted
15 on the allegations of this Accusation and that upon proof thereof
16 a decision be rendered imposing disciplinary action against all
17 licenses and license rights of Respondents, under the Real Estate
18 Law (Part 1 of Division 4 of the Business and Professions Code)
19 and for such other and further relief as may be proper under other
20 provisions of law.

21 
22 DOLORES VAZQUEZ-RAMOS
23 Deputy Real Estate Commissioner

24 Dated at Fresno, California,
25 this 10th day of July, 1996.

26
27

